

323507


**UNITED STATES DEPARTMENT OF COMMERCE  
Patent and Trademark Office**

 Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231

SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
06/323,507	11/23/81	BORNZIN	G P-552

 REED A. DUTLER  
MEDTRONIC, INC., 3055 OLD HWY. 8  
P.O. BOX 1453  
MINNEAPOLIS, MN 55440

EXAMINER	
KRAMM	
ART UNIT	PAPER NUMBER
335	10

DATE MAILED:

02/29/84

This is a communication from the examiner in charge of your application.

COMMISSIONER OF PATENTS AND TRADEMARKS

☐ This application has been examined ☒ Responsive to communication filed on 6 FEB 84 ☒ This action is made final.

 A shortened statutory period for response to this action is set to expire 3 month(s), \_\_\_\_\_ days from the date of this letter.  
Failure to respond within the period for response will cause the application to become abandoned. 35 U.S.C. 133
**Part I THE FOLLOWING ATTACHMENT(S) ARE PART OF THIS ACTION:**

- |                                                                                    |                                                                                 |
|------------------------------------------------------------------------------------|---------------------------------------------------------------------------------|
| 1. <input type="checkbox"/> Notice of References Cited by Examiner, PTO-892.       | 2. <input type="checkbox"/> Notice re Patent Drawing, PTO-948.                  |
| 3. <input checked="" type="checkbox"/> Notice of Art Cited by Applicant, PTO-1449  | 4. <input type="checkbox"/> Notice of informal Patent Application, Form PTO-152 |
| 5. <input type="checkbox"/> Information on How to Effect Drawing Changes, PTO-1474 | 6. <input type="checkbox"/> _____                                               |

**Part II SUMMARY OF ACTION**

1. ☒ Claims 6-12 are pending in the application.
- Of the above, claims \_\_\_\_\_ are withdrawn from consideration.
2. ☒ Claims 1-5 have been cancelled.
3. ☐ Claims \_\_\_\_\_ are allowed.
4. ☒ Claims 6-12 are rejected.
5. ☐ Claims \_\_\_\_\_ are objected to.
6. ☐ Claims \_\_\_\_\_ are subject to restriction or election requirement.
7. ☐ This application has been filed with informal drawings which are acceptable for examination purposes until such time as allowable subject matter is indicated.
8. ☐ Allowable subject matter having been indicated, formal drawings are required in response to this Office action.
9. ☐ The corrected or substitute drawings have been received on \_\_\_\_\_. These drawings are ☐ acceptable; ☐ not acceptable (see explanation).
10. ☐ The ☐ proposed drawing correction and/or the ☐ proposed additional or substitute sheet(s) of drawings, filed on \_\_\_\_\_, has (have) been ☐ approved by the examiner. ☐ disapproved by the examiner (see explanation).
11. ☐ The proposed drawing correction, filed \_\_\_\_\_, has been ☐ approved. ☐ disapproved (see explanation). However, the Patent and Trademark Office no longer makes drawing changes. It is now applicant's responsibility to ensure that the drawings are corrected. Corrections **MUST** be effected in accordance with the instructions set forth on the attached letter "INFORMATION ON HOW TO EFFECT DRAWING CHANGES", PTO-1474.
12. ☐ Acknowledgment is made of the claim for priority under 35 U.S.C. 119. The certified copy has ☐ been received ☐ not been received ☐ been filed in parent application, serial no. \_\_\_\_\_; filed on \_\_\_\_\_.
13. ☐ Since this application appears to be in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11; 453 O.G. 213.
14. ☐ Other

EXAMINER'S ACTION

Art Unit 335

1. The prior art cited by applicant under 37 CFR 1.97 and 1.98 in accordance with MPEP 609 has been considered and made of record. Applicant's use of PTO 1449 has been for citing the references is greatly appreciated.

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 6-8 and 11 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Zacouto.

Zacouto describes in Fig. 2 a demand type pacemaker including R-wave sensing means 3-8, A, pulse generator means 10, C with timing and reset circuitry for producing stimulating pulses at given escape interval reset in response to sensed signals. Variable escape interval setting circuitry is also provided in

Art Unit 335

unit C. Figs. 19-21 show means responsive to changes in the base pressure of the system, which is broadly related to the "level of cardiac output demanded by the body", for increasing and decreasing. The escape interval X (column 27, line 64-68).

3. The following is a quotation of 35 U.S.C. 103 which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claim 12 is rejected under 35 U.S.C. 103 as being unpatentable over Zacouto and Greatbatch.

Employing a P-wave sensing with the Zacouto system is an obvious matter of choice of conventional

Art Unit 335

sensing circuitry to one of ordinary skill in the art in view of Greatbatch's teaching.

4. Claims 9 and 10 are rejected under 35 U.S.C. 103 as being unpatentable over Zacouto and Wirtzfeld et al.

Wirtzfeld et al show the conventional expedient of employing a blood molecular oxygen level chemical detector for use in adjusting the escape interval of a pacer. One of ordinary skill in art would find the use of such a detector to adjust the escape rate of the Zacouto pacer to be an obvious matter of selection or substitution of well-known parts.

5. Applicant's arguments filed February 1984 have been fully considered but they are not deemed to be persuasive.

6. THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a). The practice of automatically extending the shortened statutory period an additional month upon the filing of a timely response to a final rejection has been discontinued by the Office. See 1021 TMOG 35.

A SHORTENED STATUTORY PERIOD FOR RESPONSE TO THIS FINAL ACTION IS SET TO EXPIRE THREE MONTHS FROM THE DATE OF THIS ACTION. IN THE EVENT A FIRST RESPONSE

Serial Number 323,507

-5-

Art Unit 335

IS FILED WITHIN TWO MONTHS OF THE MAILING DATE OF THIS FINAL ACTION AND THE ADVISORY ACTION IS NOT MAILED UNTIL AFTER THE END OF THE THREE-MONTH SHORTENED STATUTORY PERIOD, THEN THE SHORTENED STATUTORY PERIOD WILL EXPIRE ON THE DATE THE ADVISORY ACTION IS MAILED, AND ANY EXTENSION FEE PURSUANT TO 37 CFR 1.136(a) WILL BE CALCULATED FROM THE MAILING DATE OF THE ADVISORY ACTION. IN NO EVENT WILL THE STATUTORY PERIOD FOR RESPONSE EXPIRE LATER THAN SIX MONTHS FROM THE DATE OF THIS FINAL ACTION.

7. Any inquiry concerning this communication should be directed to Mr. Kamm at telephone number 703-557-3144.

KAMM:bc

2-28-84

*W. E. Kamm*  
WILLIAM E. KAMM  
PRIMARY EXAMINER  
ART UNIT 335  
*29 Feb 84*